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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,782	05/10/2002	Johan Memelink	BO 43339	7997

466 7590 10/21/2004

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EXAMINER

COLLINS, CYNTHIA E

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,782

Applicant(s)

MEMELINK ET AL.

Examiner

Cynthia Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 25-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The preliminary amendment August 6, 2001 has been entered.

Claims 1-24 are cancelled.

Claims 29-52 are newly added.

Claims 29-52 are renumbered as claims 25-48 in accordance with rule 1.126, because no claims numbered 25-28 were pending upon entry of the preliminary amendment filed August 6, 2001.

Claims 25-48 are pending.

Applicant's election filed August 8, 2004 in response to the restriction requirement mailed May 11, 2004 has been entered.

Upon further consideration of the disclosure, the previous restriction requirement is withdrawn in favor of the new restriction requirement set forth below. Any inconvenience to Applicant is regretted.

Supplemental Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 25-36 and 48, drawn to a method of modulating in a cell the level(s) of one or more metabolites and/or the expression of one or more genes by providing to the cell an AP2-domain transcription factor that is involved in the response of a plant cell to a jasmonate or a variant of the AP2-domain transcription factor comprising at least one AP2 domain having at least 40% amino acid identity with an AP2 domain of SEQ ID NO:4, including a method in which the cell is transformed with a genetic construct comprising the nucleotide sequence encoding the AP2-domain transcription factor, and to a nucleic acid molecule comprising a nucleotide sequence encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:4, and to a nucleic acid molecule comprising a nucleotide sequence of SEQ ID NO:1.

Group II, claim(s) 25-36 and 48, drawn to a method of modulating in a cell the level(s) of one or more metabolites and/or the expression of one or more genes by providing to the cell an AP2-domain transcription factor that is involved in the response of a plant cell to a jasmonate or a variant of the AP2-domain transcription factor comprising at least one AP2 domain having at least 40% amino acid identity with an AP2 domain of SEQ ID NO:5, including a method in which the cell is transformed with a genetic construct comprising the nucleotide sequence encoding the AP2-domain transcription factor, and to a nucleic acid molecule comprising a nucleotide sequence encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:5, and to a nucleic acid molecule comprising a nucleotide sequence of SEQ ID NO:2.

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Group III, claim(s) 25-36 and 48, drawn to a method of modulating in a cell the level(s) of one or more metabolites and/or the expression of one or more genes by providing to the cell an AP2-domain transcription factor that is involved in the response of a plant cell to a jasmonate or a variant of the AP2-domain transcription factor comprising at least one AP2 domain having at least 40% amino acid identity with an AP2 domain of SEQ ID NO:6, including a method in which the cell is transformed with a genetic construct comprising the nucleotide sequence encoding the AP2-domain transcription factor, and to a nucleic acid molecule comprising a nucleotide sequence encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:6, and to a nucleic acid molecule comprising a nucleotide sequence of SEQ ID NO:3.

Group IV, claim(s) 37-47, drawn to a plant, plant cell or plant material comprising a nucleic acid molecule comprising a nucleic acid molecule comprising a nucleotide sequence encoding an AP2-domain transcription factor that is involved in the response of a plant cell to jasmonate or encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:4, to a method for providing a transformed plant or a descendant of such a transformed plant, and to a method of producing a metabolite by recovering the metabolite from a recombinant cell or plant according to claim 41.

Group V, claim(s) 37-47, drawn to a plant, plant cell or plant material comprising a nucleic acid molecule comprising a nucleic acid molecule comprising a nucleotide

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sequence encoding an AP2-domain transcription factor that is involved in the response of a plant cell to jasmonate or encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:5, to a method for providing a transformed plant or a descendant of such a transformed plant, and to a method of producing a metabolite by recovering the metabolite from a recombinant cell or plant according to claim 41.

Group VI, claim(s) 37-47, drawn to a plant, plant cell or plant material comprising a nucleic acid molecule comprising a nucleic acid molecule comprising a nucleotide sequence encoding an AP2-domain transcription factor that is involved in the response of a plant cell to jasmonate or encoding a variant of the AP2-domain transcription factor comprising at least one AP2-domain having an amino acid sequence with at least 40% homology to AP2-domain of SEQ ID NO:6, to a method for providing a transformed plant or a descendant of such a transformed plant, and to a method of producing a metabolite by recovering the metabolite from a recombinant cell or plant according to claim 41.

The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking the inventions of Groups I-VI is AP2-domain containing transcription factors and the polynucleotides that encode them. However, AP2-domain

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containing transcription factors and the polynucleotides that encode them are anticipated by Okamuro et al. (Proc Natl Acad Sci U S A. 1997 Jun 24;94(13):7076-81), and therefore do not constitute a special technical feature as defined by PCT Rule 13.2, because they do not define a contribution over the prior art. The special technical feature of Group I is the nucleotide sequence of SEQ ID NO:1 encoding SEQ ID NO:4 and its use to modulate metabolite levels and/or gene expression in a cell, the special technical feature of Group II is the nucleotide sequence of SEQ ID NO:2 encoding SEQ ID NO:5 and its use to modulate metabolite levels and/or gene expression in a cell, the special technical feature of Group III is the nucleotide sequence of SEQ ID NO:3 encoding SEQ ID NO:6 and its use to modulate metabolite levels and/or gene expression in a cell, the special technical feature of Group IV is the plant, plant cell or plant material comprising the nucleotide sequence encoding SEQ ID NO:4, its method of its manufacture and its use to produce a metabolite, the special technical feature of Group V is the plant, plant cell or plant material comprising the nucleotide sequence encoding SEQ ID NO:5 its method of its manufacture and its use to produce a metabolite, the special technical feature of Group VI is the plant, plant cell or plant material comprising the nucleotide sequence encoding SEQ ID NO:6, its method of its manufacture and its use to produce a metabolite.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (571) 272-0794. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cynthia Collins



10/15/04